

Remarks:

Responsive to the Official Action mailed July 31, 2006, Applicant respectfully requests reconsideration, reexamination and allowance of claim 6 in view of the above-noted amendments, the following remarks and the concurrently filed Statement Regarding Common Ownership.

First Examiner Elkins has rejected claim 6 under 35 USC 103(a) as unpatentable over Gosis, US Patent No. 6,896,174 in view of Boitel,, US Patent No. 2,778,559.

As to this rejection, the Examiner states that a showing that the invention of the Gosis patent and that of the present application were commonly owned at the time the present invention was made, would remove (disqualify) the Gosis patent as prior art.

Submitted herewith is a STATEMENT REGARDING COMMON OWNERSHIP that establishes that the present application, US Serial No. 10/644,130 and Gosis, US Patent No. 6,896,174 were, at the time the invention of the present application was made, owned by the assignee (of the above-noted US Patent No.6,896,174 and the present application), Illinois Tool Works Inc. Accordingly it is respectfully submitted that Gosis, US Patent No. 6,896,174 is removed or disqualified as prior art for purposes of examination of the present invention.

Next, Examiner Elkins has rejected claim 6 under 35 USC 103(a) as unpatentable over France '404 in view of any of Koehler, Cornell or Himelreich, all of which have been discussed previously in connection with the present application.

The Examiner has taken the position that Fr '404 discloses all of the structure of the claimed invention except for the formation of the configuration as a rigid unit, and that each of Koehler, Cornell or Himelreich teaches that it is known to make a container with folds formed between rigid sections.

The Examiner concludes that it would have been obvious to make the container of FR '404 as a rigid unit as taught by any Koehler, Cornell or Himelreich. The Examiner has taken the position that the secondary references teach that it is known to make a container unit from rigid materials with folds formed between the rigid sections and that it would thus have been obvious to combine the teachings of the Fr '404 document with the teachings of any of the

secondary references to provide a stronger container with less chance of damage during use.

The Examiner states further that the container of Fr '404 is considered to be "preformed" insofar as it is formed from a blank and certain sections are folded upwardly prior to final completion of the container.

Applicant has amended claim 6 in an earnest effort to move the present application along to allowance. Claim 6 is directed to a single-piece packaging container that has a seamless appearance and is configured for enclosing one or more objects. The single piece container is formed from a preformed, rigid unit of U-shaped cross-section. The unit has a main body portion with a bottom wall and opposing side walls. The opposing side walls are rigid and non-foldable relative to the bottom wall adjacent to the side walls.

To close the container, the unit forms two end closures. The closures are formed from first closure panels extending from and adjacent to both ends of the main body portion and second closure panels extending from and adjacent to both ends of the first closure panels. The first and second closure panels have side walls that have a height approximately equal to the height of the main body portion side walls. A length of one of the second closure panels is about equal to a length of the main body portion.

The main body portion and the first closure panels are separated from one another by first fold lines formed in the bottom wall at a juncture of the main body portion and the first closure panel, and the first closure panels and the second closure panels are separated from one another by second fold lines also formed in a bottom wall at a juncture of the first closure panels and the second closure panels.

The main body portion side walls have straight-cut corners between the main body portion side walls and the first closure panel side walls and the first closure panels side walls have first straight-cut corners adjacent the main body portion. Likewise, the first closure panels side walls have second straight-cut corners adjacent the second closure panels and the second closure panels side walls have straight-cut corners adjacent the first closure panels.

In this arrangement, the first closure panel is folded along the fold line generally perpendicular to the main body portion bottom wall, and the second closure panels are inserted

inside the main body portion side walls, folding along the fold lines, generally perpendicular to the first closure panels and generally parallel to the main body portion bottom wall.

First, Applicant would like to point out that the claimed structure is somewhat different from the characterization provided by the Examiner. The Examiner states that Koehler, Cornell and Himelreich teach that it is known to make a container from rigid material with folds formed between the rigid sections. This is not quite the claimed structure. Rather, the claimed structure is a rigid U-shaped unit. The Examiner's characterization would allow a rigid sheet with folds to read on (and thus make unpatentable) the claimed structure. This is not what is claimed, nor should it be the basis for examination and/or an assertion that the claimed invention is unpatentable. It is a rigid U-shaped unit that forms a container form a single element that is the subject matter of the present invention, not a "folded" sheet.

As such, Applicant submits that the properly interpreted claimed structure is not disclosed in the art of record individually or in any combination. As set forth in previous remarks, the Fr '404 document is the only one that arguably shows a container made from a single "piece" of material or a single unit. Each of the other references requires multiple units or elements to form the package. Koehler appears to have cuts in material at the sidewall/bottom wall corner as well as separate top piece. Cornell has separate top and bottom sections, and requires still other elements to form the ends (to close the container), and Himelreich is formed from what appears to be a relatively large number of elements (see, e.g., the corners at FIGS. 3 and 5, which appear to show butt-type joints). Accordingly, none of the secondary art or record discloses a single or unitary container element.

Moreover, none of the art of record shows a container element (such as a bottom or top) that is formed from a single member in which the side walls are rigid relative to the base, e.g., bottom wall. The only reference that discloses something even close to this configuration is that shown in Cornell. However, the container units in Cornell are formed from "sheet material by incising a V-shaped rabbet along each of two predetermined fold lines that are preferably reinforced by a hinge means to permit the units to lie flat when not being used . . ." (Col. 2, lines 17-20). Accordingly, Applicant submits that the container units of Cornell are in complete

contrast to the presently claimed container that is formed from a preformed, rigid unit of U-shaped cross-section.


Moreover, none of the other art of record discloses this rigid, pre-formed U-shaped cross-section configuration that forms a container from a single unit or member. The Fr '404 document discloses a container that requires numerous folds in both a longitudinal direction and a transverse direction, various slits or cuts between panels, and double faced adhesive to form a container that clearly would not withstand the rigors that the present container could withstand. And, like the Cornell container, the container disclosed in the Fr '404 document does not have the same cross-sectional shape and thus strength of the present single-piece container.

For the above reasons, Applicant submits that any combination of the art of record simply fails to disclose the claimed structure. Accordingly, Applicant submits that claim 6, as amended, is allowable over the art of record and respectfully and earnestly solicits early indication of same.

Applicant believes that there is no fee due in connection with the present AMENDMENT B AFTER FINAL or the concurrently filed STATEMENT REGARDING COMMON OWNERSHIP. If, however, there is a fee due in connection with the present submittal, the Commissioner is hereby authorized to charge any under-payment or credit any over-payment to Deposit Account No. 50-2035.

Should here be any questions or concerns in connection with the present submittal, it is respectfully requested that the undersigned be contacted.

Respectfully submitted,

By   
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Dated: September 8, 2006

Serial No. 10/644,130  
Art Unit 3727

Amendment B After Final

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